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BOOK REVIEWS.

KENNETH M. SPENCE, *Editor-in-Charge.*

SELECT ESSAYS IN ANGLO-AMERICAN LEGAL HISTORY. By VARIOUS AUTHORS. Boston: Little, Brown & Co. 1908. Vol. II, pp. viii, 823.

This volume is a worthy successor of the first of the series, which was noticed in the *REVIEW* for January, 1908, and shows that the editors are accomplishing their task in an admirable manner. All of the articles here reprinted are instructive, while some of them are intensely interesting.

Perhaps the most fascinating contribution, in the present volume, is Mr. Maitland's, on Materials for the History of English Law. His thorough mastery of a subject, his art in selecting and grouping facts, his rare insight into the habits of thought and conduct of past generations, and his attractive literary style are here displayed, to the illumination of his theme and the joy of the reader. It is worth noting that he believes in the existence of "the law merchant," as a body of rules "to be administered between merchants in mercantile affairs, which differed from the common law." He adds: "Whether very much of this law merchant can be recovered may be doubtful, but until the archives of our cities and boroughs have been thoroughly explored by some one who knows what to look for, we shall do well to believe that something may yet be learned."

In some instances, two or more of the articles overlap and thus afford the reader an excellent opportunity of comparing the more or less divergent views of different writers. Examples are supplied by Mr. Holdsworth's discussion of the "Year Books" and Mr. Pike's description of "An Action at Law in the Reign of Edward III.," as well as by Mr. Pike's "Common Law and Conscience in the Ancient Court of Chancery" and Dean Ames's "The Origin of Uses and Trusts." Mr. Holdsworth's valuation of the Year Books appears to be much higher than Mr. Pike's. Indeed the latter essays to prove that "It is necessary to travel beyond the Year Books in order to understand them," and that "the Year Books are not very intelligible without a proper use of the records relating to them." And yet, Mr. Pike admits that "there are in the reports innumerable matters of interest, legal, historical, constitutional and social which have no counterpart in the rolls." For example, he discovers in the report of a discussion between counsel in the Year Book of Ed. III. evidence that "the practice of grafting on the whitethorn was well known in the fourteenth century in England, and that fruit was already cultivated with some skill."

Mr. Pike and Dean Ames seem to be at greater variance than Mr. Holdsworth and Mr. Pike. The last named author reaches the conclusion that Chancery, as a court of conscience, does not attain much importance until after the reign of Henry V., while Dean Ames insists that equity has, from the beginning, embodied a higher ethical standard than the common law, and that this is due to the fact that "equity acts upon the person."

But we must not extend to further length our comparison of the views of contributors, nor our comment upon their contributions. We have noted a few mistakes in dates, which may well be corrected in future issues. On page 128, we are told that the Commentaries of Plowden "extends from Edward III. to Elizabeth (1550-1580)." If the first year belongs to the reign of Edward III., it should be 1350; but undoubtedly what the author intended to write was Edward VI. instead of Edward III. Again, on page 811, we are assured that certain acts of the Colonial Assembly of Pennsylvania "were repealed by the English government in 1793. It should be 1693. Curiously enough, both of these mistakes are found in the original articles.

LAW AND CUSTOM OF THE CONSTITUTION. By Sir William R. Anson, Bart. 3 volumes. Vol. II: The Crown. Part II. 3rd Ed. Oxford: Henry Frowde. 1908. pp. xxiv, 347.

In the publication of the third edition of his justly celebrated work on British government, Sir William Anson has issued Chapters V-X of the former second volume as a separate part, with the addition of an introductory chapter and some sixty pages amplifying the text of the preceding edition which appeared in 1896. No serious changes have been made in the spirit and purpose of the original work, which has been for more than twenty years the standard treatise on the legal side of British government. It would, therefore, be a work of supererogation to describe in detail or bring under critical review the plan and method of the author. This part contains the chapters on the dominions and dependencies of the crown, foreign relations, revenues and expenditures, the armed forces, the churches, and the courts. In dealing with these subjects, Sir William has no occasion to record any important alterations in the framework of British government, such as occurred, for example, in local administration between the publication of his first and second editions. Accordingly the modifications incorporated in this volume consist principally of minor expansions and clarifications of the original text: for example, Wales got one page in the second edition and two pages and a half in this, while six pages are added to the division on local government. Perhaps the most noteworthy addition is the section describing the new imperial defence committee (pp. 214-15) which might be very profitably contrasted with the act creating our General Staff Corps (United States Statutes, 1902-03, p. 830). The introductory chapter (p. xxii) contains a few lines on the functions of the expert bill draftsman that ought to be suggestive to American legislatures which, by their haphazard and inefficient methods in the preparation of laws, so often cause inconvenience to the public and bring the art of law-making into discredit. In comparing page by page the second with this new edition, one finds that the many minor alterations have given more firmness and sharpness to the original text—the result, doubtless, of Sir William's recent administrative experience which brought him in touch with realities which he saw before only darkly through the maze of statutes. It is to be profoundly wished that some American legist would do for our government what Sir William has done for the government of Great Britain.